IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL JAIL REVISION PETITION NO. 1036/2006
(Karma V/s State of Rajasthan)

Date of Order : 16/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Vijay Purohit, for the petitioner.
Mr. Ashok Upadhyay, P.P.

BY THE COURT:-

This is a jail revision. The accused petitioner is unrepresented. Shri Vijay Purohit, Advocate is appointed as Amicus Curiae to assist the court on behalf of the petitioner. He shall be paid his remuneration by the Legal Services Authority as if appointed under Legal Aid Scheme.

The accused petitioner was tried by the Chief Judicial Magistrate, Udaipur (for short 'the trial court' hereinafter) in Criminal Case No. 32/05 “State Vs. Karma” for the offence under Section 353 IPC. The trial court on appreciation of the evidence produced before it came to the conclusion that the prosecution

has proved the case beyond reasonable doubt against the petitioner for the offence noticed above and sentenced the petitioner to undergo two years simple imprisonment and a fine of Rs. 10,000/-, in default of payment of fine to further undergo three months simple imprisonment. The judgment and the order of the trial court dated 5.7.2006 was challenged by the petitioner before the learned Sessions Judge, Udaipur (for short 'the appellate court' hereinafter) by way of criminal appeal being Cr. Appeal No. 138/2006. The appellate court on reappreciation of the material available on record came to the conclusion that the finding arrived at by the trial court is based on sound and proper appreciation of the evidence and dismissed the appeal.

I have heard learned amicus curiae and public prosecutor for the State. Perused the order impugned passed by the courts below.

The allegation against the petitioner is that while he was facing a criminal trial before the Judicial Magistrate, Gogunda, he threw 'chappal' on Judicial Magistrate while discharging his official duty as public servant. It is not in dispute that the Judicial Magistrate, Gogunda while in Court was discharging his duty and conducting the criminal proceeding in criminal case. It appears that the petitioner has been facing many cases and one in which the petitioner was convicted and sentenced was decided on 14.12.2004 and other matter was on

15.12.2004 in which while the court proceedings were going on, the petitioner threw the Chappal on Judicial Magistrate. This fact has been established from the evidence and the witnesses produced by prosecution namely PW-1 Shiv Prakash Tamboli, Judicial Magistrate, Gogunda, PW-2 Jagdish Chandra, PW-3 Om Prakash, PW-4 Kamlesh, PW-5 Chatarsingh Jhala, PW-8 Kishandas, PW-9 Pyarelal and PW-11 Kanhaiyalal. These witnesses were present in the Court when the petitioner threw the Chappal on the Judicial Magistrate, PW-1. In my view, the essential ingredients of the offence under Section 353 IPC are prima-facie made out from the statements of prosecution witnesses. Both the courts below have concurrently found the petitioner guilty and accordingly convicted and sentenced the petitioner.

In this view of the matter, there is no error of law warranting interference in the instant revision petition. The revision petition has no merit and it is therefore, dismissed. The petitioner be informed accordingly.

(H.R.PANWAR),J.

rp